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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

Crl.O.P.No.11527 of 2025

Srinidhi Finance Private Limited,
New No. 5/1, Old No. 3/1,
6th Cross Street, CIT Colony,
Mylapore, Chennai – 600 004.
Represented by its Authorised Signatory,
Mr.B.Chandramouli
srinidhi.fin@gmail.com ...Petitioner

Vs.

1. Central Bureau of Investigation,
Represented by Head of Branch,
Banking Securities & Fraud Branch -CBI,
36, Bellary Road, 2nd Floor,
CBI Complex, Ganga Nagar,
Bangalore – 560 032.
hobbsblr@cbi.gov.in
hozbsfz@cbi.gov.in

2. M/s.Indian Overseas Bank,
Commercial and Institutional Credit Branch,
R.K.Salai, Mylapore,
Chennai - 600 004,
iob1535@iob.in

3. M/s.Bank of India,
Asset Recovery Branch,
No. 30, Errabalu Street, Star House
4th Floor, Chennai – 600 004,
arb.chennai@bankofindia.co.in ...Respondents

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Prayer: Criminal Original Petition filed under 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to direct the Respondent No.1 viz., Central Bureau of Investigation to conduct Investigation into the affairs of Padmaadevi Sugars Limited, with its registered office at 106, Palayasivaram Village, Kancheepuram, Tamil Nadu, India - 631 606 (now under liquidation under IBC with Mr.S.Rajendran as the Liquidator) based on the complaint dated 22.07.2021/03.08.2022 lodged by Indian Overseas Bank (the Respondent No.2) with the 1st respondent herein in accordance with law.

For Petitioner	: Mr.Satish Parasaran, Senior Counsel Mr.R.Bharadwajaramasubramaniam
For R1	: Mr.K.Srinivasan, Special Public Prosecutor for CBI cases
For R2 & R3	: Mr.S.Sathyanarayanan

ORDER

This Criminal Original Petition is filed to direct the first respondent, namely the Central Bureau of Investigation, to conduct an investigation into the affairs of Padmaadevi Sugars Limited, a company now under liquidation, having its registered office at No. 106, Palayasivaram Village, Kancheepuram, Tamil Nadu, India - 631 606, based on the complaints dated 22.07.2021 and 03.08.2022 lodged by Indian Overseas Bank.

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2. Heard, *Mr. Satish Parasaran* , the learned Senior Counsel appearing on behalf of the petitioner, *Mr. K. Srinivasan* , the learned Special Public Prosecutor appearing on behalf of the Central Bureau of Investigation - first respondent, and *Mr. S. Sathyanarayanan,* the learned counsel appearing on behalf of the second and third respondents.

3. The crux of the allegations is that Padmaadevi Sugars Limited, having obtained loans from Indian Overseas Bank and other banks, had an outstanding sum of Rs. 120.84 crores to Indian Overseas Bank alone as of 30.06.2012, indulged in certain fraudulent activities where the hypothecated machinery was stealthily sold without the creditors' knowledge. These transactions occurred even while negotiations were ongoing and shares and assets were being transferred from one group to another. This is categorically mentioned in the complaint, suggesting the commission of cognizable offences. However, no case was registered. Subsequently, the third respondent bank and other creditors lodged repeated complaints. In spite of this, the first respondent did not register any case; therefore, the petitioner has approached this Court.

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4. The original petition is opposed by the first respondent through the filing of a counter. Their case is that, initially, when the complaint was received, the information provided was insufficient to register a First Information Report, as the relevant loans were declared NPAs in the years 2010 and 2012, and the accounts were designated as fraudulent in 2020. Therefore, no petition or complaint was pending with the first respondent. In the meantime, the State of Tamil Nadu has withdrawn consent under Section 6 of the Delhi Special Police Establishment Act, 1946, and thus, at this stage, they cannot take up the allegations.

5. The learned counsel appearing for the second and third respondent banks drew the Court's attention to the communication dated 28.03.2025 issued by the Deputy Inspector General, CBI, Bangalore, which categorically states that the first two complaints filed on 03.08.2022 and 01.04.2024 were analysed. Regarding the first set of complaints from 2022, they were returned to the banks requesting certain clarifications.

6. The learned counsel appearing for the second and third respondents submitted that the banks were required to furnish additional information, including conducting a forensic audit. He stated that, in fact, the second

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complaint dated 01.04.2024 is merely an update with the particulars previously sought by the first respondent. A review of the complaint clearly shows, column-wise, the queries made by the first respondent and the compliance provided by the bank. Therefore, as of 01.04.2024, the required compliances were duly fulfilled. Subsequently, the first respondent, relying upon the judgment of the Hon'ble Supreme Court in ***State Bank of India and Others v. Rajesh Agarwal and Others (2023 6 SCC 1),*** once again contended that the bank had not complied with the mandatory directions given in the said judgment and therefore took no action on the grounds that the directives of the Hon'ble Supreme Court of India in *Rajesh Agarwal* were not complied with. The learned counsel further argued that even in the original judgment rendered by the Hon'ble Supreme Court in the said case, in paragraph 98.1, it is stated that regarding the registration of an FIR, no opportunity needs to be given to the accused, in line with the basic principle that an investigation can begin without hearing the accused.

7. In reply, the learned Senior Counsel appearing for the petitioner would submit that, in a subsequent judgment, ***Central Bureau of Investigation v. Surendra Patwa and Others (2015 INSC 572)***, the Hon'ble

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Supreme Court specifically clarified that the requirement regarding the show cause notice, or with reference to the other civil actions, would not apply for the registration of First Information Reports. Therefore, even if the order classifying the account as fraudulent is quashed by the Courts on the grounds of principles of natural justice, the registration of the FIR and the investigation are not affected by the rule requiring *audi alteram partem*. In view thereof, he would submit that the stand taken by the first respondent organization can no longer be countenanced.

8. I have considered the rival submissions made on either side and reviewed the material records of the case.

9. It is undisputed that, upon reviewing the complaint and the allegations presented, *prima facie* cognizable offences of criminal misappropriation are established. Further inquiry or investigation is necessary to determine whether public servants in various banks were involved, which will be revealed during the investigation process. The only reason the case was not registered in 2022 was that the information provided was insufficient. However, it can be observed from the subsequent complaint dated 01.04.2024

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that the necessary compliance has been made and all required information has been furnished.

10. In view thereof, and even though the State of Tamil Nadu has withdrawn general consent under Section 6, given the facts and circumstances of the case, where the amount involved is said to be around Rs. 100 crores worth of plant and machinery that is said to be sold and the amounts misappropriated, I am of the view that this is a fit case to be entrusted to the first respondent for investigation.

11. As for the arguments relating to non-compliance of principles of natural justice, as rightly pointed out by the learned Senior Counsel, the Hon'ble Supreme Court of India in *Rajesh Agarwal (cited supra)* held as follows :

> *"**98.** The conclusions are summarised below:*
>
> ***98.1.** No opportunity of being heard is required before an FIR is lodged and registered."*

Furthermore, in *Surendra Patwa (cited supra)*, the Hon'ble Supreme Court of India considered the issue where the first information reports were also quashed while quashing the orders classifying the account as fraudulent

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and held that the principles of natural justice apply only to the said administrative action and not to the criminal investigation. In those cases, the banks are again entitled to issue the orders afresh and for that purposes, the first information reports cannot be quashed. It is relevant to extract paragraph 10 which reads as under :

> *"**10.** From a perusal of the above paragraphs, it is clear that the principles of natural justice are not applicable at the stage of reporting a criminal offence. It has further been clarified that providing an opportunity of being heard prior to the commencement of a criminal action (i.e. registration of an FIR), would frustrate the very purpose of initiating a criminal proceeding, which is to meet the ends of justice. More specifically, para 98.1 of Rajesh Agarwal's case (supra) explicitly states that no opportunity of being heard is required before an FIR is lodged or registered."*

12. Therefore, the respondent organization can proceed with registering the case and conducting the investigation, regardless of the status of the matter related to the classification of the account as fraudulent. It is essential to note that fraud itself is not a criminal offense; if the alleged acts constitute a criminal offense, then an investigation must be conducted and the offenders brought to justice. In fact, if the plant and machinery are hypothecated and sold secretly, prima facie, the elements of criminal misappropriation are established. If any further false representation is made, the offense of cheating would also be made out. If the officials are complicit by receiving any undue

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pecuniary benefits, then additional offenses under the Prevention of Corruption Act, 1988 may also be considered in due course.

13. Accordingly, this Criminal Original Petition is allowed on the following terms:-

(i) The first respondent shall register a case based on the complaint dated 03.08.2022 and the subsequent information provided by the second respondent and other banks. All other creditors, including the petitioner, shall also provide any additional information, if available. Any preliminary enquiry shall be completed within three weeks from the date of receipt of the web copy of this order, and the case shall be registered in accordance with the law;

(ii) The first respondent shall conduct a thorough investigation and submit a final report in accordance with the law. The exercise shall be completed within one year from the date of case registration.

(iii) No costs.

10.06.2025

Neutral Citation: Yes
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To

1. The Head of Branch,
   Central Bureau of Investigation,
   Banking Securities & Fraud Branch -CBI,
   36, Bellary Road, 2nd Floor,
   CBI Complex, Ganga Nagar,
   Bangalore – 560 032.

2. Indian Overseas Bank,
   Commercial and Institutional Credit Branch,
   R.K.Salai, Mylapore,
   Chennai - 600 004,
   iob1535@iob.in

3. Bank of India,
   Asset Recovery Branch,
   No. 30, Errabalu Street, Star House
   4th Floor, Chennai – 600 004,

4. The Special Public Prosecutor for CBI Cases
   Madras High Court, Chennai.

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<u>D.BHARATHA CHAKRAVARTHY, J.</u>

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